

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Charlottesville Division

QUEEN OF VIRGINIA SKILL &
ENTERTAINMENT, LLC,
POM OF VIRGINIA, LLC, AND
MIELE MANUFACTURING, INC.

Plaintiffs,

v.

Civil Action No. 3:19-cv-00065

JOSEPH D. PLATANIA, IN HIS OFFICIAL
CAPACITY AS COMMONWEALTH'S
ATTORNEY FOR THE CITY OF
CHARLOTTESVILLE,

Defendant.

MOTION TO DISMISS
FIRST AMENDED COMPLAINT

NOW COMES the Defendant, Joseph D. Platania ("Platania"), in his official capacity as Commonwealth's Attorney for the City of Charlottesville, by counsel, pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, and moves this Court to dismiss Plaintiffs' First Amended Complaint. This Court does not have jurisdiction, because Plaintiffs have not presented a justiciable controversy, and Platania is immune from suit given his role as a prosecutor under the doctrines of absolute prosecutorial immunity and sovereign immunity. Moreover, Plaintiffs have failed to state a claim upon which relief can be granted and have not alleged facts sufficient to state a cause of action. Platania incorporates the Brief in Support of his Motion to Dismiss Plaintiffs' First Amended Complaint as if fully set forth herein.

WHEREFORE, Defendant Joseph D. Platania, by counsel, respectfully requests this Court to grant his Motion to Dismiss, dismiss Plaintiffs' First Amended Complaint with prejudice, and grant all other relief this Court deems just and appropriate.

**JOSEPH D. PLATANIA, IN HIS
OFFICIAL CAPACITY AS
COMMONWEALTH'S ATTORNEY
FOR THE CITY OF
CHARLOTTESVILLE**

/s/

David P. Corrigan (VSB No. 26341)
Jeremy D. Capps (VSB No. 43909)
M. Scott Fisher, Jr. (VSB No. 78485)
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C E R T I F I C A T E

I hereby certify that on the 18th day of December, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/

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